



**A REPORT
TO THE
MONTANA
LEGISLATURE**



***Accountability, Compliance,
and Transparency –
Reporting and Resolving
Allegations of Fraud, Waste,
and Abuse in Montana State
Government***

Fiscal Year 2019

OCTOBER 2019

**LEGISLATIVE AUDIT
DIVISION**

19ACTHotline



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ACCOUNTABILITY, COMPLIANCE, AND TRANSPARENCY HOTLINE

The Accountability, Compliance, and Transparency (ACT) Hotline is a confidential, 24-hour-a-day, 365-days-per-year service that you can access from any location. Reports may be made on either an anonymous or named basis. The website is hosted by an independent third party not part of the State of Montana. You may report anonymously with confidence on this site if you choose. To assist in the investigation, those reporting potential fraud, waste, or abuse in Montana State government are encouraged to identify themselves; however, anonymous reports will also be accepted and investigated.

- ◆ Report online at www.Montanafraud.gov
- ◆ E-mail LADHotline@mt.gov with a description of the allegation.
- ◆ Call the toll-free Fraud Hotline at (800) 222-4446, or in Helena at (406) 444-4446. This Hotline is available 24 hours a day, 7 days a week. A person is generally available to answer your call personally Monday-Friday from 7 a.m. to 2 p.m.
- ◆ Text2Tell. Text your concern to (704) 430-3930. Your text will be routed through an independent third party to protect your anonymity. Your phone number is not recorded or provided to us. You will receive a confirmation text with directions on how to check the status of your report and communicate anonymously with our office.
- ◆ Send a written report to the following address:
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PO Box 201705
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October 2019

The Legislative Audit Committee
of the Montana State Legislature:

This is our report summarizing hotline and referral activity for fiscal year 2019.

The Legislative Audit Act requires the legislative auditor to establish and maintain a toll-free number (hotline) for reporting fraud, waste, and abuse in state government. The Act further requires the legislative auditor to periodically report to the Legislative Audit Committee the use of the toll-free number; results of reviews, verifications, and referrals; and corrective actions taken by appropriate agencies. State agencies are also required to notify the legislative auditor upon discovery of any theft, actual or suspected, involving state money or property under that agency's control. We report the results of our financial-compliance, information systems, and performance audits throughout the year, and these reports can also include the results of hotline submissions and referral work.

This report provides the legislature a summary of all hotline and referral activity for fiscal year 2019. It includes work completed on submissions either during financial-compliance, information systems, or performance audits, or independent of a scheduled audit. This report includes a statistical section, information on specific submissions, and referrals due to suspected criminal activity. For the first time this biennium, we are also reporting the results of a state employee survey relating to fraud, waste, and abuse.

Respectfully submitted,

Angus Maciver

Angus Maciver
Legislative Auditor

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HOTLINE

ACT Hotline

Legislative Audit Division

OCTOBER 2019

19ACTHOTLINE

REPORT SUMMARY

We received 52 reports of potential fraud, waste, or abuse to our hotline in fiscal year 2019 and agencies reported 20 discoveries of theft or suspected theft. We substantiated two reports, and are still investigating two. We made two criminal violation referrals to the attorney general. A survey of state employees found reports of fraud, waste, and abuse occur mostly internally. However, we intend to increase awareness of our hotline. We also plan to use this survey as a baseline for examining fraud, waste, and abuse in state government.

Context

Agency internal controls are always going to be the first line of defense against fraud, waste, and abuse in state government. We believe the hotline helps promote accountability, compliance, and transparency in state government operations. Our goal is to enhance citizen engagement in the fight against fraud, waste, and abuse. The Legislative Audit Division's Accountability, Compliance, and Transparency (ACT) Hotline provides a confidential and anonymous method for reporting concerns that could benefit from independent, objective, and nonpartisan review.

This report summarizes activity reported through the ACT Hotline. As required by statute, we describe the following:

- ◆ Information on the use of the hotline
- ◆ The results of our reviews and verifications of the submissions
- ◆ Referrals to the Attorney General

Agencies reported a total of 20 discoveries of theft or suspected theft in fiscal year 2019, which is three more than reported in fiscal year 2018.

Results

There were 52 total reports to the ACT Hotline for fiscal year 2019 (see the table on page S-2). Of these we substantiated two submissions; both related to the misuse of state procurement cards. We made two referrals to the attorney general. One resulted in criminal charges being filed.

Additionally, in fiscal year 2019, we surveyed 6,000 state employees to understand their perceptions and attitudes about the amount of fraud, waste, and abuse in state government; their willingness to report issues; and their awareness and engagement with the available reporting mechanisms. We received 1,626 responses to our survey of state employees. We were surprised more employees were not aware of the hotline prior to taking the survey, but were pleased to know they would use it now that they were aware of its existence. We found it troubling that many employees did not report fraud, waste, or abuse because they feared retaliation, but we hope to reduce that fear by increasing trust in the hotline through education and awareness.

Hotline Reports for FY19

Substantiated reports	2
Unsubstantiated reports	34
Inconclusive investigation	4
Referred to agency	2
No jurisdiction	8
Reports still under investigation	2
Total	52

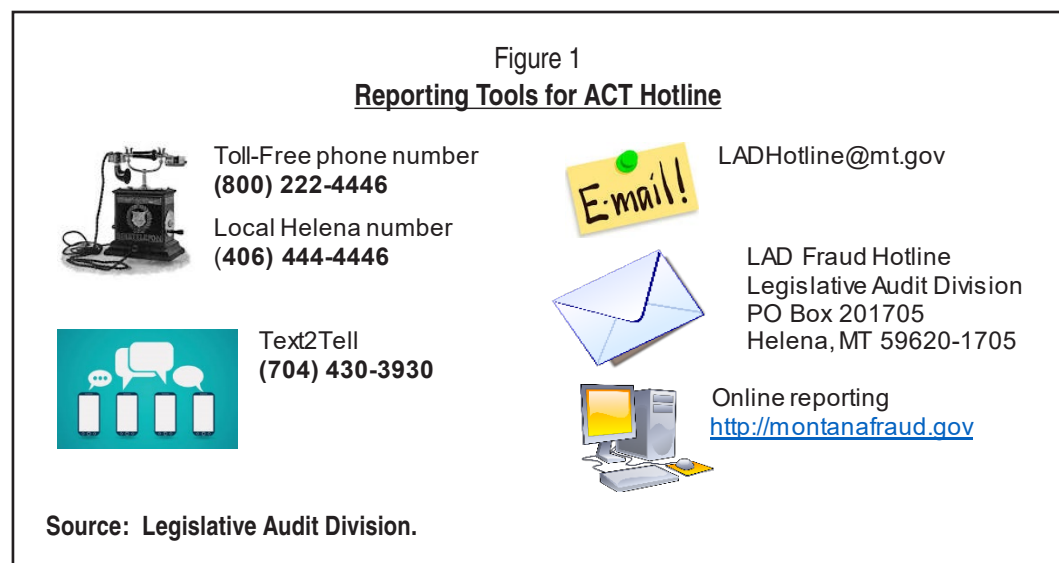
Source: Legislative Audit Division.

For a complete copy of the report (19ACTHotline) or for further information, contact the
Legislative Audit Division at 406-444-3122; e-mail to **lad@mt.gov**; or check the web site at
www.//leg.mt.gov/audit
Report Fraud, Waste, and Abuse to the Legislative Auditor's FRAUD HOTLINE
Call toll-free 1-800-222-4446, or e-mail **lad@mt.gov**.

Chapter I – Introduction

Hotline Background

Section 5-13-311, MCA, requires the legislative auditor to establish and maintain a mechanism for citizens to report fraud, waste, or abuse in state government; review and maintain a record of all submissions; analyze and verify the information received; or refer the information for appropriate action to the agency that is or appears to be the subject of the call. The Legislative Audit Division (LAD) established a hotline in 1993, and since then citizens or state employees could submit a report through a toll-free number. Currently, there are several ways a member of the public or a state employee can report a concern regarding alleged fraud, waste, or abuse in state government. These include of a toll-free phone number, email, United States Postal Service, online reporting form, and text. LAD records and manages the submissions to the hotline in a database. These reporting mechanisms are illustrated in Figure 1.



In addition, §5-13-309, MCA, requires agency directors to report the discovery of any theft (actual or suspected) to LAD. These are termed “penal violations” and are also recorded and managed in the LAD database.

Accountability, Compliance, and Transparency (ACT) Hotline Improvements

A 2018 report from the Association of Certified Fraud Examiners found that 40 percent of occupational frauds were discovered by tips. Organizations with reporting hotlines were 50 percent more likely to detect fraud through tips than organizations without

hotlines. The LAD ACT Hotline can play an important role in identifying fraud, waste, and abuse in Montana State government.

LAD staff track hotline submissions in a cloud-based case management system to more effectively and efficiently record, analyze, and resolve submissions to the hotline. The case management system is also the repository for penal violations reported to LAD and allows staff to analyze those reports as well.

All reporting forms allow the reporter to remain anonymous and their information confidential. We are committed to doing a better job of educating state employees on these functions and increasing the awareness of the hotline. Additionally, §5-13-314, MCA, provides protection for state employees or authorized contractors from penalties, sanctions, retaliation, or restrictions about their employment as a result of their disclosure of information to LAD or the Legislative Audit Committee, as long as they have not violated state law.

LAD staff dedicated 407 hours addressing the responsibilities associated with the hotline in fiscal year 2019. This number of hours is substantially more than the 197 staff hours reported for fiscal year 2018. This increase is largely due to LAD staff responding to more submissions rather than referring the allegations to an agency. We have also done a better job of tracking time spent on submissions.

Penal Violations and Criminal Referrals

As previously stated, state law requires agencies to report the discovery of any theft, actual or suspected to LAD. A penal violation may also be discovered during an audit or reported through the hotline. The ACT Team also reviews and classifies these types of submissions and determines if there is a need to obtain additional information for use in an ongoing or subsequent audit, assign staff to analyze the submission, or refer the issue to the attorney general and the governor, as required by state law. If such a referral is made, the legislative auditor is required to furnish the attorney general with all information available relative to the violation. Chapter IV of this report provides information regarding these criminal referrals for fiscal year 2019 and referrals stemming from fiscal year 2018 submissions that were still being investigated when the 18ACTHotline report was issued.

Report Contents

The remainder of the report presents the usage of the hotline; the results of the reviews, verifications, and referrals; any corrective actions taken by the appropriate agencies; and the results of a state employee fraud hotline survey.

- ♦ Chapter II provides statistics about the use and results of the hotline.
- ♦ Chapter III discusses substantiated hotline cases and corrective actions taken by the appropriate agency.
- ♦ Chapter IV presents the criminal referrals made to the attorney general.
- ♦ Chapter V and its appendices present the results of the State Employee Fraud Hotline Survey.

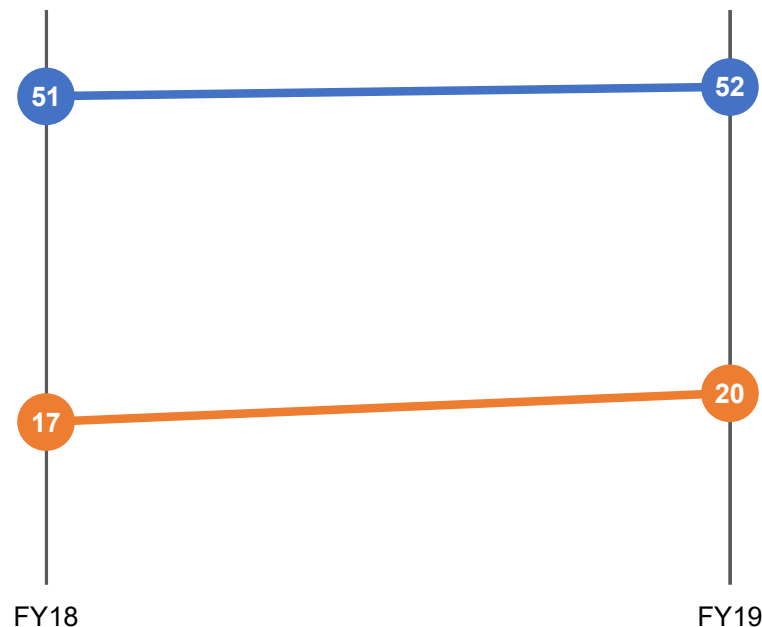
Chapter II – Statistics

Introduction

Hotline reports are allegations of potential fraud, waste, or abuse of state resources. In fiscal year 2019 there were a total of 52 hotline reports. This is one more than the 51 reports in fiscal year 2018.

Penal violations (PV) are reports from agencies of the discovery of any actual or suspected theft. Additionally, a PV may also be discovered during an audit or reported through the ACT hotline. In fiscal year 2019 there were 20 reported penal violations, three more than were reported (17) in fiscal year 2018. The following figure illustrates the total hotline reports and PVs received by the Legislative Audit Division (LAD) in fiscal years 2018 and 2019.

Figure 2
Hotline Reports and Penal Violations Slightly Increased Between FY18 and FY19



Source: Legislative Audit Division.

Hotline Submissions

When a hotline report is received, an ACT Team member categorizes the allegation based on how the reporter describes the subject matter.

The following figure categorizes the 52 hotline submissions received in fiscal year 2019.

Figure 3
Compliance Issues and Wage and Hour Were the Highest Areas for Hotline Reports in FY19



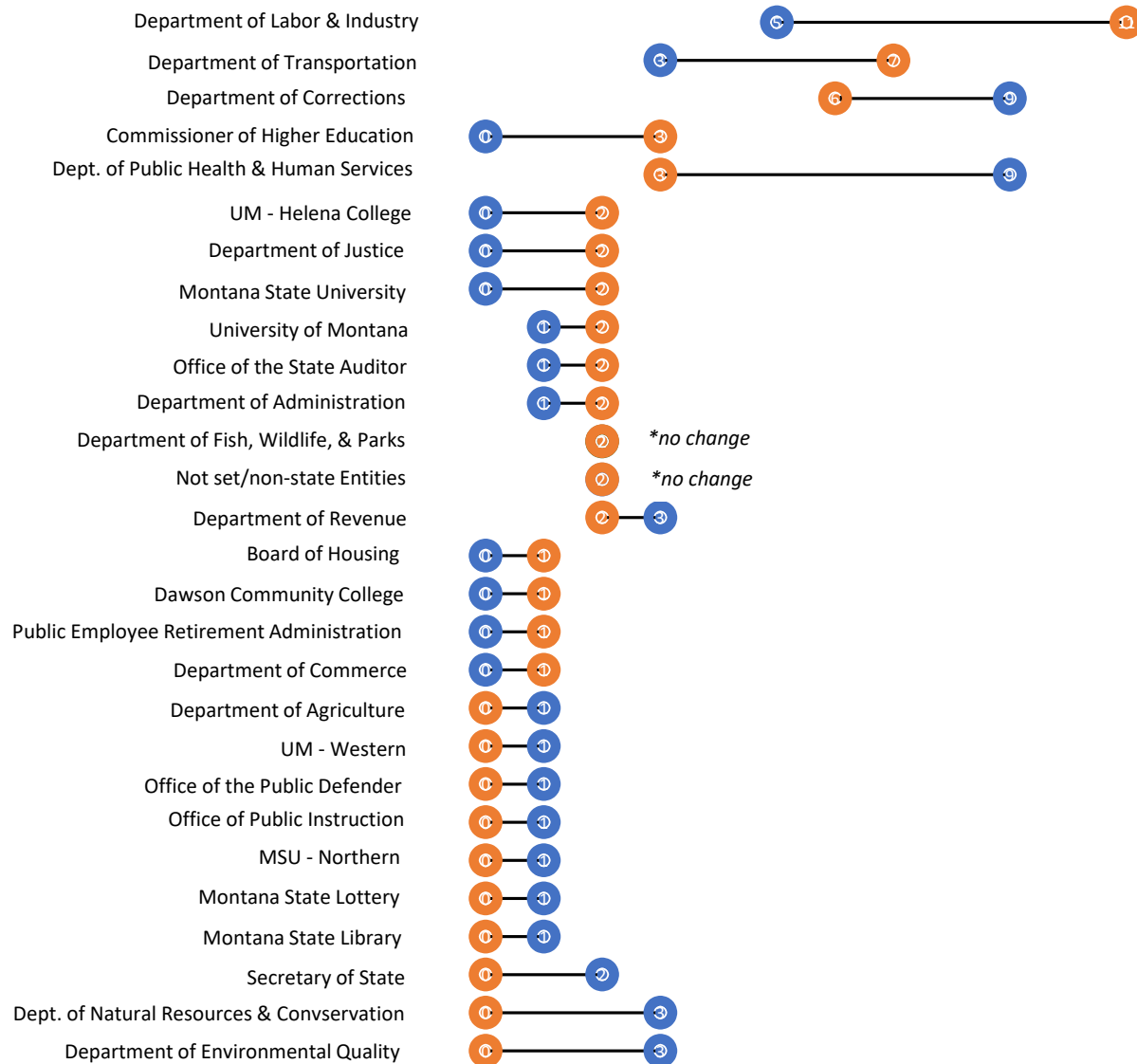
Source: Legislative Audit Division.

As seen in Figure 3:

- ◆ Compliance and wage and hour submissions were the highest areas for hotline reports in fiscal year 2019. Compliance submissions relate to agency staff complying with federal or state law, state or agency policy, or agency procedures.
- ◆ Wage and hour submissions are largely allegations of employees getting paid for time not worked.
- ◆ Conflicts of interest submissions included allegations of the appearance of competing interests or loyalties such as nepotism, self-dealing, or favoritism.
- ◆ LAD had jurisdiction over only one of the six submissions in the general fraud category. The submission alleged agency staff were falsifying records.
- ◆ The misuse of state property or resources included allegations of misuse of a state vehicle and waste of state funds for meetings and travel.
- ◆ The attendance submission related to an allegation of an employee sleeping at their workstation.

Each submission is assigned, based on the information provided by the reporter, to an entity that is the subject of the submission. Figure 4 (see page 7) shows agencies and entities that were the subject of hotline reports in fiscal years 2018 and 2019. In fiscal year 2019, 17 agencies were the subject of hotline submissions.

Figure 4
There Were More Hotline Submissions in FY19 Than in FY18 for Some Agencies



Source: Legislative Audit Division.

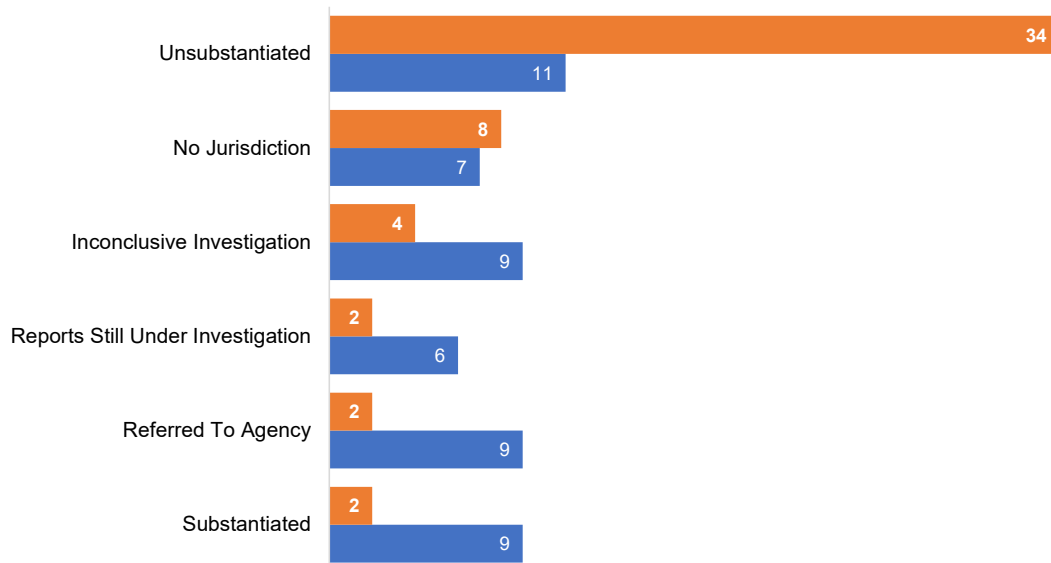
As seen in Figure 4, the Department of Labor and Industry had 6 more submissions related to it in fiscal year 2019 (11) than in fiscal year 2018 (5). The Department of Transportation's submissions went from 3 in fiscal year 2018 to 7 in fiscal year 2019, while the Department of Public Health and Human Services submissions fell by 6 over this same time period.

LAD staff resolve reports based on the evidence obtained and the ability of staff to corroborate the allegation. The following figure depicts the type of resolution that resulted from the work staff completed for each of the submissions.

We categorize the resolution of the reports in one of the following ways:

- ◆ **Substantiated:** Evidence found or provided to support allegation
- ◆ **Unsubstantiated:** No support for allegation
- ◆ **Inconclusive Investigation:** No conclusion can be made on allegation
- ◆ **No Jurisdiction:** No authority over the subject of the allegation
 - ◇ Local or federal government issues
 - ◇ Under jurisdiction of another state agency hotline
- ◆ **Referred to Agency:** agency takes appropriate action
 - ◇ Agency responds in writing and provides corrective action

Figure 5
**More Hotline Reports Were Unsubstantiated in FY19 Than in FY18, and
 We Referred Fewer Reports to Agencies**



Source: Legislative Audit Division.

As the figure shows, more hotline reports were unsubstantiated in fiscal year 2019 than in fiscal year 2018. We believe this is due, in part, because we referred fewer submissions to agencies. Additionally, we had five fewer inconclusive investigations in fiscal year 2019 (four) than in fiscal year 2018 (nine).

Penal Violations

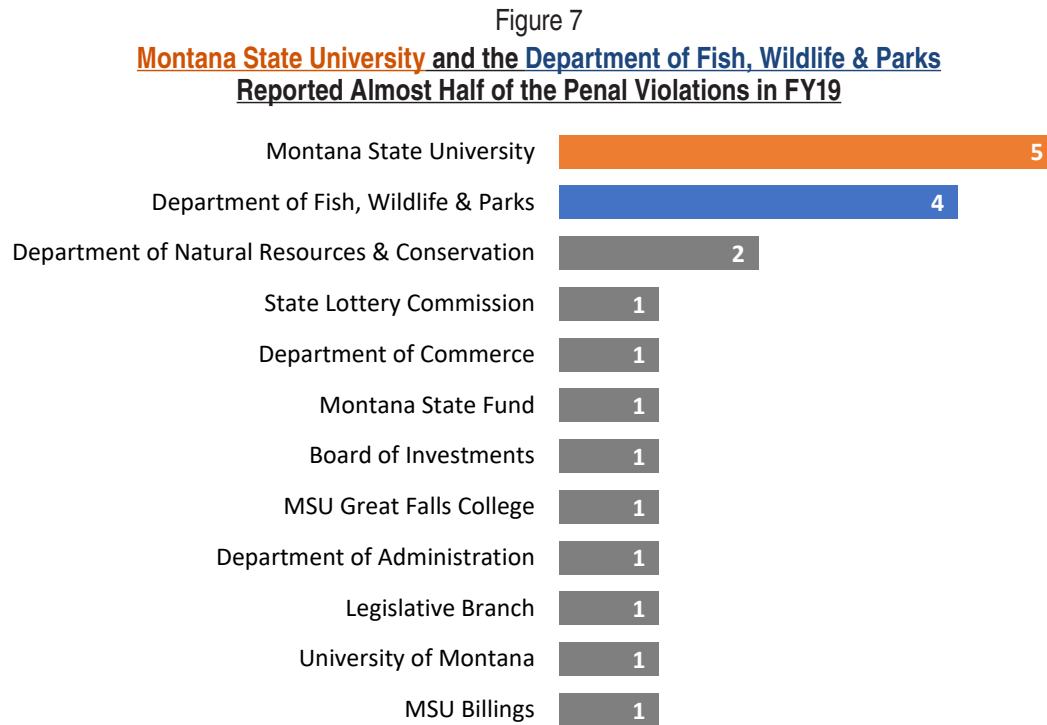
Penal violations (PV) are submissions from agencies to satisfy their statutory responsibility to report theft or suspected theft to the legislative auditor. A PV may also be discovered during an audit or reported through the hotline. In fiscal year 2019 there were a total of 20 PV reports; this is up from 17 reports in fiscal year 2018. The types of PVs are shown in Figure 6.



Source: Legislative Audit Division.

Theft of company assets include an infrared digital camera, scientific equipment, and computers. The theft of personal property was the attempted theft of an employee paycheck. The merchandise category was misuse of a state procurement card. In the check fraud category, an agency was presented with a fraudulent invoice. There was no loss of state funds. The cash category relates to funds taken before they are recorded on the state accounting records. This is different from cash larceny, where funds are taken after being recorded on the state accounting records. In this category an agency reported fraudulent agency checks being received by an out-of-state agency. These checks were never presented for payment.

In fiscal year 2019, 12 state entities reported a total of 20 PVs. The breakout of PVs by entity for fiscal year 2019 is shown in Figure 7.



Source: Legislative Audit Division.

In fiscal year 2018, eight state agencies reported a total of 17 thefts of property or cash, with the universities and the Department of Fish, Wildlife & Parks reporting seven, or nearly half of the PVs.

While the number of reported PVs has increased slightly from last year, we continue to be concerned about under- or non-reporting by state agencies. Some agencies appear to be diligent in identifying and reporting lost or missing assets, but others may either not be experiencing any losses or may not have the ability to identify these situations effectively. State government as a whole has operating expenses of roughly \$7.5 billion annually, in excess of 20,000 employees, and hundreds of different work sites and environments across the state. It is not unreasonable to assume that an enterprise of this scale would suffer from a greater degree of loss and theft than is currently being reported.

Chapter III – Substantiated Cases

Introduction

Reports to the hotline are confidential until the legislative auditor or other appropriate agency acts to verify the fraud, waste, or abuse reported and takes corrective action. The information concerning the subject of the complaint and the remedy, if any, becomes public information, unless it is otherwise precluded by law from disclosure. Two submissions reported to the Accountability, Transparency, and Compliance (ACT) Hotline for fiscal year 2019 were substantiated. One substantiated report from fiscal year 2018 that was still under investigation is also detailed in this chapter. Two of the three substantiated reports were determined to be waste of state resources. Waste is defined as an unintentional, thoughtless, or careless expenditure, consumption, mismanagement, use, or squandering of government resources to the detriment or potential detriment of the state.

In Fiscal Year 2018 the Department of Natural Resources and Conservation's Use of Monetary Rewards to Employees Found to Be Waste

We received an allegation of abuse regarding the frequency and amount of monetary rewards to employees by two divisions in the Department of Natural Resources and Conservation (DNRC).

We reviewed agency records, interviewed staff, and found:

- ♦ The amounts of the rewards varied greatly, without documentation of the reason for the amount selected.
- ♦ Some rewards did not have a reason for the reward documented on the agency form required when authorizing the reward.
- ♦ No agency form was found for one reward given.
- ♦ One reward, valued at over \$450, was related to one management team but the expense was paid out of an unrelated fund.
- ♦ One reward, valued at \$150, was given to a large group, without documentation of the reason for the reward or what was purchased with the funds.

We determined this to be waste. However, there is risk abuse could occur without changes in policy and procedures related to these types of monetary rewards.

DNRC indicated they updated their Guidelines for Annual Awards policy to include defined dollar amounts for rewards, where applicable. It also improved its instructions on processing the recommendation, approval, receipt, and taxing of

rewards. The 16-17 and 18-17 financial-compliance audits of DNRC both contained recommendations to implement internal controls over monetary rewards to employees.

In Fiscal Year 2019 a University of Montana Program's Use of a State Procurement Card Determined to Be Waste

We received an allegation related to a former program director at the University of Montana. We requested records from the university regarding an internal audit review and supporting documentation. The documentation showed the former director made questionable charges on a state procurement card (pro-card). Some pro-card charges lacked supporting documentation, and some were personal charges. Even though the university sought reimbursement for personal charges, we determined the former director's use of the pro-card to be waste of state resources.

Additionally, §5-13-309(3), MCA, requires state agencies to notify the legislative auditor and the attorney general, in writing, about the discovery of theft or suspected theft. The university provided no notification to either the legislative auditor or the attorney general regarding the personal pro-card charges. This requirement is not negated because the university sought reimbursement for the personal charges.

In Fiscal Year 2019 University of Montana–Helena College's Misuse of a State Procurement Card Was Substantiated

We received a submission alleging misuse of a pro-card at the University of Montana–Helena College. Through our review, we substantiated the allegations of the submission. We found the agency was aware of actual or suspected theft but did not immediately notify either the legislative auditor or the attorney general as required by §5-13-309(3), MCA. While this information was not disclosed by an audit of a state agency, we felt obligated to report this to the attorney general as an apparent violation of a penal statute by a state employee. The attorney general requested the Helena Police Department accept jurisdiction of the investigation. This investigation is currently ongoing. We will provide additional information on this submission in the fiscal year 2020 Hotline report.

Chapter IV – Apparent Criminal Violation Referrals

Employee of the Department of Corrections Charged

Introduction

Section 5-13-304(4), MCA, requires our office to report to the attorney general apparent violations of the penal statutes identified during audit work. During our financial-compliance audit of the Department of Corrections (18-15) we discovered a department employee may have violated §45-6-301(6), MCA (Theft of Property by Embezzlement) and §45-7-401, MCA (Official Misconduct).

We provided the attorney general a letter detailing the allegation and documentation that showed the employee used state funds to purchase auto parts for a personal vehicle.

Investigation

The attorney general assigned the investigation of the allegations to the Department of Justice's Division of Criminal Investigation. The agent in charge of the investigation enlisted the assistance of another investigator, reviewed documentation provided by Legislative Audit Division staff, conducted interviews of the employee and department staff, and prepared a case file. The case file was presented to the Powell County Attorney for possible prosecution of several misdemeanor criminal charges.

Conclusion

On March 29, 2019, an Information was filed in the Third Judicial District Court, Powell County, charging the employee with two counts of theft of property by embezzlement and two counts of official misconduct, all misdemeanors. On April 15, 2019, the employee and the state agreed to enter into a pretrial diversion of the charges for a period of one year. Pursuant to this agreement, the employee admitted to two counts of official misconduct, agreed to remain law abiding for the period of the deferment, pay the state the sum of \$222.28, and not retaliate against any witness in the matter. Should the employee comply with these conditions, the state agreed to dismiss the charges at the end of the deferment period, April 15, 2020. The employee remains employed by the department but was suspended without pay for a total of 80 hours.

Employee of the Office of Secretary of State Reported for Apparent Violation of Penal Statute

Introduction

Pursuant to §5-13-304(4), MCA, we reported to the attorney general an apparent violation of penal statutes disclosed by the financial-compliance audit of the Office of the Secretary of State (18-19). We determined an employee of the Office of the Secretary of State may have violated §2-17-425, MCA. This statute precludes a state employee from using a state-owned vehicle to commute between the employee's residence and a worksite. A violation of this statute constitutes a misdemeanor pursuant to §2-17-432, MCA.

We provided a letter to the attorney general detailing the documentation supporting this possible violation, including odometer readings, fuel transaction reports, lease agreement, and the employee's calendar and travel dates.

Investigation

The attorney general requested that the Helena Police Department investigate this apparent criminal violation. The department concluded its investigation and forwarded investigative materials to the Helena City Attorney for a charging decision.

Conclusion

The Helena City Attorney declined to pursue charges, stating the statute of limitations precludes the filing of charges absent additional information that would extend the deadline.

Chapter V – State Employee Fraud Hotline Survey

Introduction

In 2018 the Legislative Audit Division (LAD) launched a new third-party vendor system for reporting and managing allegations of fraud, waste, and abuse. This new system offers many advantages, including improved web-based reporting of allegations as well as text-enabled reporting, while still protecting the reporter's anonymity. We believe we are able to respond faster, have better documentation of allegations, and have improved reporting to the legislature.

In June 2019 LAD sent an electronic survey to a sample of state employees. The purpose of the survey was to assess current awareness of and engagement with mechanisms for reporting fraud, waste, and abuse in state government. Additionally, we hoped to learn the attitudes and perceptions of state employees about the amount of fraud, waste, or abuse in state government, and their willingness to report issues. We sent the survey to a random sample of state employees across the Executive and Judicial branches as well as the University System. We believe this year's voluntary and anonymous survey provides us with baseline information that will guide our efforts to promote awareness and use of the ACT Hotline over time. We intend to repeat this survey in odd numbered years.

Survey Recipients

Survey recipients consisted of a random sample of 6,000 state employees from the approximate 22,000 employees across the Executive and Judicial branches and the Montana University System. We excluded the Legislative Branch and student employees of the Montana University System from the survey. To ensure enough representation from each agency, we sampled employees from larger agencies (those with more than 100 employees) proportionately to the number of employees at the agency. We sampled 155 employees from the pool of smaller agencies. We then used an online survey software to email the survey to the randomly sampled employees. The survey was sent out in June 2019, and recipients were given two weeks to respond to it.

Survey Respondents

We received 1,626 responses to our survey for an overall response rate of 27.1 percent. Response rates varied by agency. We had lower response rates from the Montana University System, likely due to the survey being sent following the conclusion of the academic year.

Survey respondents varied in the number of years they have been employed by the state. Half the respondents indicated they have worked for the State of Montana fewer than 10 years.

Survey Results

The following sections summarize the more noteworthy results of our survey. Additional information about the survey questions and responses can be found in the Appendices.

First-Hand Knowledge of Fraud, Waste, or Abuse

The survey respondents were asked if, in the past two years, they had first-hand knowledge of fraud, waste, or abuse occurring in the agency where they currently worked. *Fraud* was defined as any intentional or deliberate act to deprive another of property or money by guile, deception, or other unfair means. *Waste* was defined as an unintentional, thoughtless or careless expenditure, consumption, mismanagement, use or squandering of government resources to the detriment or potential detriment of the state. Finally, *Abuse* was defined as an intentional, wrongful, or improper use or destruction of government resources, or seriously improper practice that does not involve prosecutable fraud. The following figure depicts the percentage of responding employees indicating they had first-hand knowledge of fraud, waste, or abuse.

Figure 8

Some Survey Respondents Said They Had First-Hand Knowledge of Fraud, Waste, or Abuse in the Agencies for Which They Worked in the Past Two Years



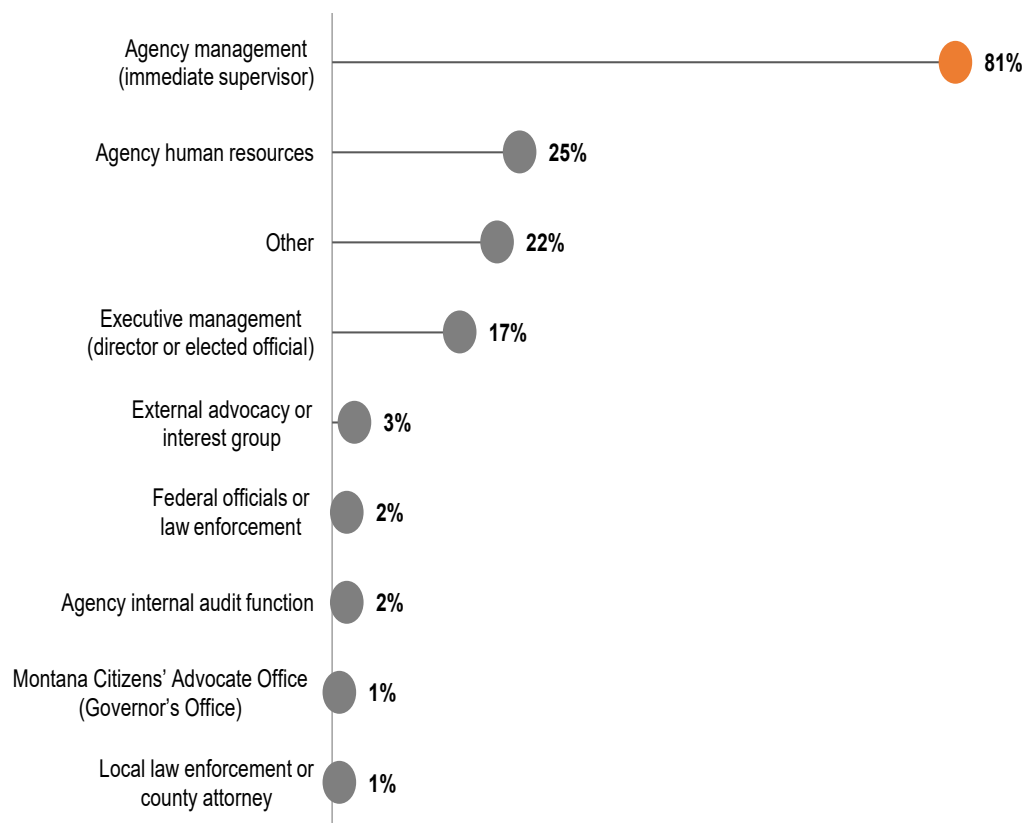
Source: Compiled by the Legislative Audit Division from online survey results.

As expected, a higher percentage of respondents had knowledge of waste compared to abuse or fraud. We consider this to be a baseline for future surveys.

Reporting Fraud, Waste, or Abuse

Several survey questions sought to discover where respondents reported first-hand knowledge of fraud, waste, or abuse. Specifically, we wanted to know if employees were aware of the ACT Hotline and why they did or did not report their allegations to the Hotline. The following figure depicts where survey respondents reported instances of fraud, waste, abuse.

Figure 9
Of Survey Respondents Who Indicated They Reported Fraud, Waste, or Abuse, Most Said They Reported the Instance Internally to an Immediate Supervisor



Source: Compiled by the Legislative Audit Division from online survey results.

We found most survey respondents who indicated they reported fraud, waste, or abuse reported it internally. The respondents who chose the other category indicated their report was to specified internal personnel. This supports the premise that agency internal controls are the first line of defense in the shared effort to promote accountability, compliance, and transparency in state government operations.

The biggest reason respondents did not report to the ACT Hotline was that they were unaware of it. The following figure depicts the reasons why respondents did not use the ACT Hotline to report first-hand knowledge of fraud, waste, or abuse.

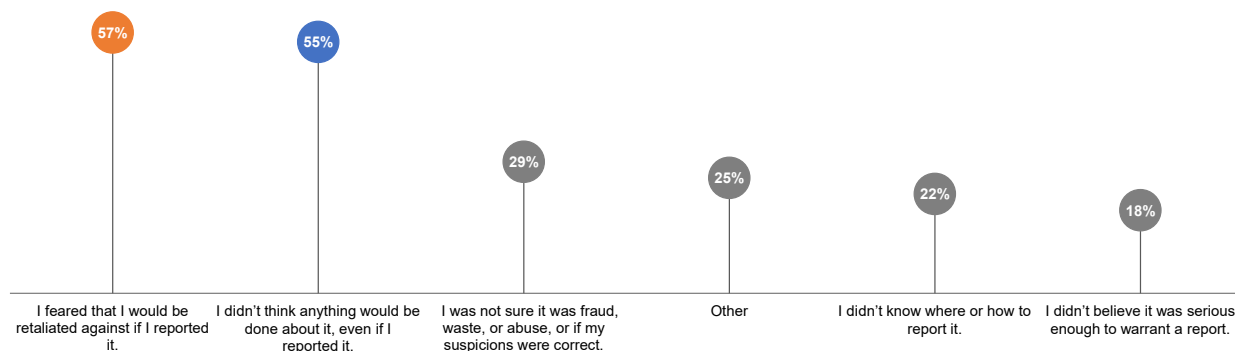


Source: Compiled by the Legislative Audit Division from online survey results.

Forty-two percent were unaware of the existence of the hotline, and 20 percent believed it was not the place to report the situation. The respondents who chose the “other” category indicated they reported it internally rather than to the hotline. We were surprised that so many state employees were unaware of the hotline and need to do more to inform them of its existence. We also need to educate them about when the hotline is the appropriate place to report their concerns and what we do with the information once it is reported. We are perplexed by the low number of reports to the internal audit function at agencies. We believe this number should be higher.

Some survey respondents said they had first-hand knowledge of fraud, waste, or abuse, but they did not report it. When we asked why, certain reasons were more common. Figure 11 depicts the reasons why employees did not report suspected fraud, waste, or abuse.

Figure 11
The Most Common Reasons for Not Reporting Fraud, Waste, or Abuse at all Were Fear of Retaliation and Thinking Nothing Would Be Done About It

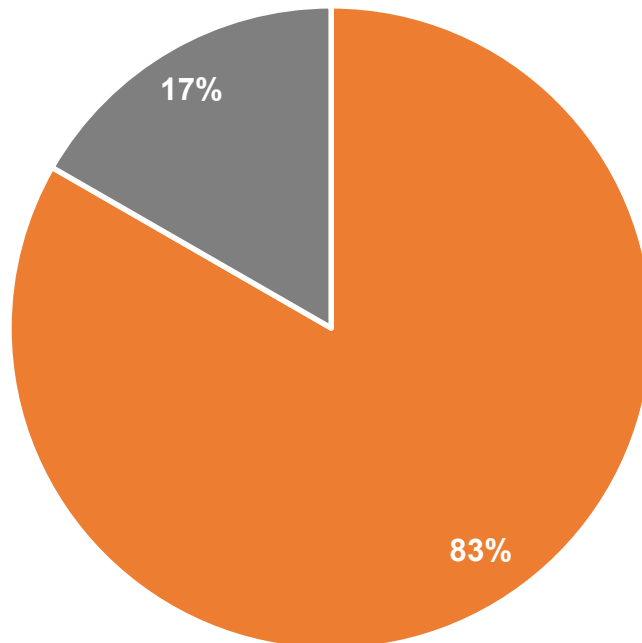


Source: Compiled by the Legislative Audit Division from online survey results.

The most common reason for not reporting fraud, waste, or abuse was fear of retaliation (57 percent) followed by not believing anything would be done about the allegations (55 percent). These responses are troubling but not surprising. We believe increasing awareness of the hotline and education about its confidential and anonymous nature will help build confidence in the hotline.

In fiscal years 2018 and 2019 there were 44 reports of potential fraud, waste, or abuse to the ACT Hotline each fiscal year. Based on our research, we have found Montana receives fewer reports than other states' hotlines. In periodically surveying state employees, we hope to increase the awareness of the ACT Hotline for state employees. Figure 12 depicts survey respondents' willingness to use the ACT Hotline in the future.

Figure 12
Most Survey Respondents Indicated They Would Use the LAD Hotline in the Future if They Became Aware of Suspected Fraud or Abuse



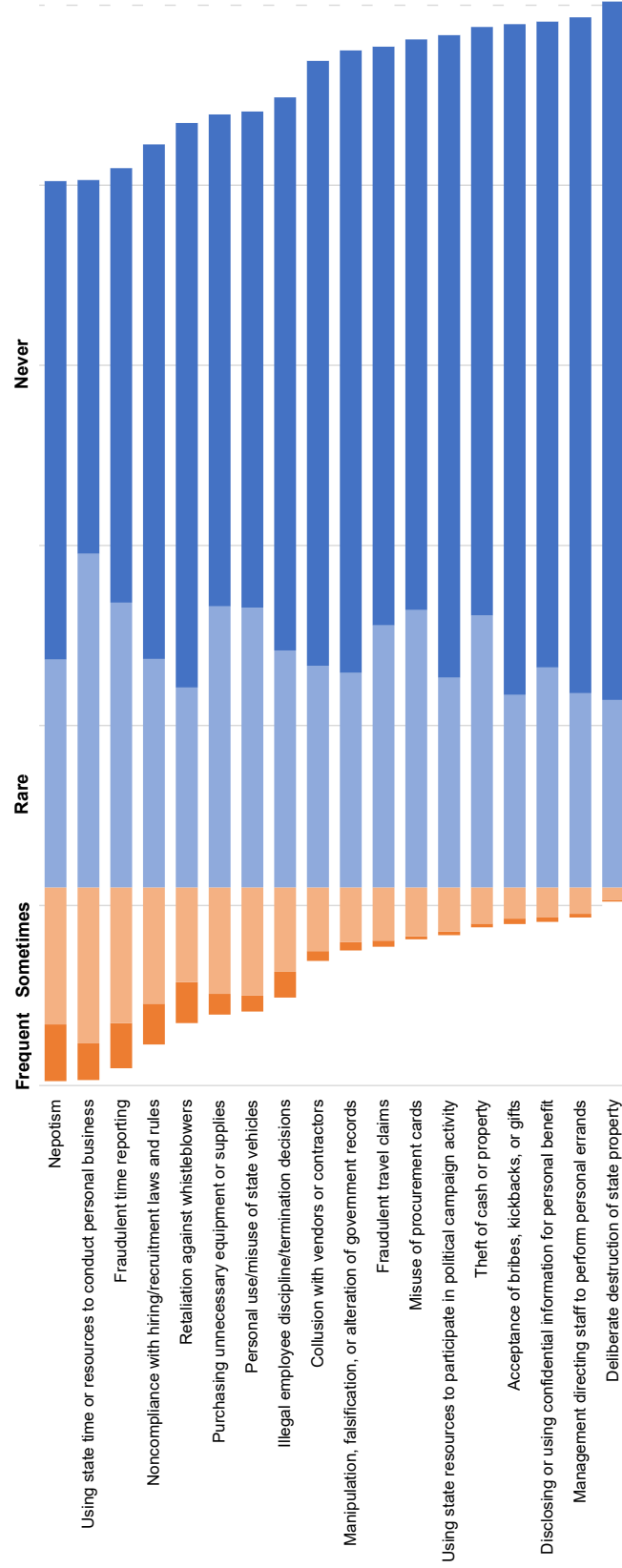
Source: Compiled by the Legislative Audit Division from online survey results.

We are considering ways to increase reporting to the hotline. The survey helps promote awareness of the hotline as will repeating the survey every biennium, but we need to do more.

Perceived Prevalence of Fraud, Waste, and Abuse

To understand the perceptions of state employees about the prevalence of fraud, waste, and abuse, we gave survey respondents about 18 examples of fraud, waste, or abuse that can occur in the public sector. We obtained these examples from previous ACT Hotline submissions and the 2018 report from the Association of Certified Fraud Examiners report referenced in Chapter I. Figure 13 (see page 21) depicts the types of fraud, waste, or abuse state employees perceive is taking place.

Figure 13
Nepotism, Using State Time or Resources to Conduct Personal Business, and Fraudulent Time Reporting Were Indicated as the Most Frequently Occurring Examples of Fraud, Waste, or Abuse Perceived by Employees



Source: Compiled by the Legislative Audit Division from online survey results.

As the figure shows, nepotism and using state time or resources to conduct personal business were the most frequently occurring types of fraud, waste, and abuse perceived by state employees. Rounding out the top five are fraudulent time reporting, noncompliance with hiring/recruitment laws and rules, and retaliation against whistleblowers. Hiring favoritism and personal interactions within the workplace confirm fraud, waste, or abuse that is easier to commit is most common. Less common, and not surprising, are perceived acts of fraud where a criminal penalty exists. We are interested in what changes we see over time, if any. Changes may influence where we focus our audit efforts in the future.

APPENDICES

Appendix A – Agency Response Rates

Appendix A shows the list of agencies whose employees received surveys. It is divided into two sections: those agencies with more than 100 employees and those with fewer. The top area depicts those with more than 100 employees. This includes the executive branch agencies (white); the judicial branch (light gray); and the entities that make up the university system (medium gray). The number of surveys sent, response numbers and the response rate in percentages is listed for each of these agencies. Since the agencies with fewer than 100 employees (green) were aggregated together, the number of surveys sent, and the percentage response rate are also aggregated. However, the number of responses received for each agency is represented.

	Agency	Surveys Sent	Responses	Response Rate
More than 100 employees	Department of Administration	232	88	38%
	Department of Commerce	50	25	50%
	Department of Corrections	339	88	26%
	Department of Environmental Quality	105	56	53%
	Department of Justice	231	70	30%
	Department of Labor and Industry	202	108	53%
	Department of Military Affairs	35	11	31%
	Department of Natural Resources and Conservation	146	56	38%
	Department of Public Health and Human Services	704	256	36%
	Department of Revenue	162	75	46%
	Department of Transportation	565	211	37%
	Fish, Wildlife, and Parks	187	98	52%
	Office of Public Instruction	63	28	44%
	State Fund	79	29	37%
	Judicial Branch	123	37	30%
	Great Falls College	82	3	4%
	Montana State University-Billings	268	28	10%
	Montana State University-Bozeman	1054	150	14%
	Montana State University-Northern	60	11	18%
	University of Montana-Helena	52	0	0%
	University of Montana-Missoula	760	101	13%
	University of Montana-Montana Tech	299	17	6%
	University of Montana-Western	47	9	19%
Fewer than 100 employees	Arts Council		0	
	Board of Public Education		2	
	Commissioner of Political Practices		1	
	Department of Agriculture		10	
	Department of Livestock		8	
	Governor's Office		11	
	Historical Society		10	
	Montana School for the Deaf and Blind		4	
	Montana State Library		2	
	Public Service Commission		3	
	Secretary of State		5	
	State Auditor's Office		15	
Total		6000	1626	Overall response rate of 27.1%

Appendix B – Full Survey Results

Appendix B includes the 21 questions asked on the survey and the answer choices for each question. The tables after each question provide the response rate as a percentage and the number of responses. The tables for each question also show the number of respondents answering the question. The question was “skipped” either because previous answers did not require a respondent to answer particular questions or a respondent entered the survey but did not finish.

Question 1 - Which agency of state government do you work for?

Answer Choices	Responses	
Arts Council	0.00%	0
Board of Public Education	0.12%	2
Commissioner of Political Practices	0.06%	1
Department of Administration	5.41%	88
Department of Agriculture	0.62%	10
Department of Commerce	1.54%	25
Department of Corrections	5.41%	88
Department of Environmental Quality	3.44%	56
Department of Justice	4.31%	70
Department of Labor and Industry	6.64%	108
Department of Livestock	0.49%	8
Department of Military Affairs	0.68%	11
Department of Natural Resources and Conservation	3.44%	56
Department of Public Health and Human Services	15.74%	256
Department of Revenue	4.61%	75
Department of Transportation	12.98%	211
Fish, Wildlife & Parks	6.03%	98
Great Falls College	0.18%	3
Governor's Office	0.68%	11
Historical Society	0.62%	10
Judicial Branch	2.28%	37
Montana School for the Deaf and Blind	0.25%	4
Montana State Library	0.12%	2
Montana State University-Billings	1.72%	28
Montana State University-Bozeman	9.23%	150
Montana State University-Northern	0.68%	11
Office of Public Instruction	1.72%	28
Public Service Commission	0.18%	3
Secretary of State	0.31%	5
State Auditor's Office	0.92%	15
State Fund	1.78%	29

Answer Choices	Responses	
University of Montana-Helena	0.00%	0
University of Montana-Missoula	6.21%	101
University of Montana-Montana Tech	1.05%	17
University of Montana-Western	0.55%	9
	Answered	1,626
	Skipped	60

Question 2 - How many years have you worked for the state of Montana?

Answer Choices	Responses	
0-10	50.49%	821
11-20	29.15%	474
21-30	15.87%	258
More than 30	4.49%	73
	Answered	1,626
	Skipped	60

Question 3 - The following is a definition of FRAUD: Any intentional or deliberate act to deprive another of property or money by guile, deception, or other unfair means. In the past two years, do you have any first-hand knowledge of fraud occurring in the agency you are currently working for?

Answer Choices	Responses	
Yes	5.26%	82
No	94.74%	1,476
	Answered	1,558
	Skipped	128

Question 4 - The following is a definition of WASTE: An unintentional, thoughtless or careless expenditure, consumption, mismanagement, use or squandering of government resources to the detriment or potential detriment of the state. In the past two years, do you have any first-hand knowledge of waste occurring in the agency you are currently working for?

Answer Choices	Responses	
Yes	18.74%	292
No	81.26%	1,266
	Answered	1,558
	Skipped	128

Question 5 - The following is a definition of ABUSE: An intentional, wrongful, or improper use or destruction of government resources, or seriously improper practice that does not involve prosecutable fraud. In the past two years, do you have any first-hand knowledge of abuse occurring in the agency you are currently working for?

Answer Choices	Responses	
Yes	9.76%	152
No	90.24%	1,406
	Answered	1,558
	Skipped	128

Question 6 - Which of the following describes whether you had first-hand knowledge of fraud, waste, or abuse AND your course of action?

Answer Choices	Responses	
No, I do not have first-hand knowledge of fraud, waste, or abuse in the last two years.	80.23%	1,238
Yes, I have first-hand knowledge of fraud, waste, or abuse in the last two years and I reported the instance(s).	6.87%	106
Yes, I have first-hand knowledge of fraud, waste, or abuse in the last two years and I did not report the instance(s).	12.90%	199
	Answered	1,543
	Skipped	143

Question 7 - Did you report the instance(s) to the Legislative Audit Division Hotline?

Answer Choices	Responses	
Yes	2.75%	3
No	97.25%	106
	Answered	109
	Skipped	1,577

Question 8 - To whom did you report the instance(s) of fraud, waste, or abuse? (Check all that apply)

Answer Choices	Responses	
Agency management (immediate supervisor)	81.37%	83
Agency internal audit function	1.96%	2
Agency human resources	24.51%	25
Executive management (director or elected official)	16.67%	17
Legislative Audit Division Hotline	0.00%	0
Montana Department of Justice	0.00%	0
Local law enforcement or county attorney	0.98%	1
Federal officials or law enforcement	1.96%	2
External advocacy or interest group	2.94%	3
Montana Citizens' Advocate Office (Governor's Office)	0.98%	1

Answer Choices (Question 8 continued)	Responses	
Media	0.00%	0
Other (please specify)	21.57%	22
	Answered	102
	Skipped	1,584

Question 9 - On a scale of 1-5, with 5 representing a high-level of satisfaction and a 1 representing a low-level of satisfaction, how would you rate your experience using the Legislative Audit Division Hotline to report instances of fraud, waste, or abuse in state government?

1 = Low Level of Satisfaction		2		3		4		5 = High Level of Satisfaction		Total	Weighted Average
0.00%	0	0.00%	0	33.33%	1	33.33%	1	33.33%	1	3	4
										Answered	3
										Skipped	1,683

Question 10 - Why were you dissatisfied with the Legislative Audit Division Hotline? (Check all that apply)

Answer Choices	Responses	
Non-responsive	0.00%	0
Unhappy with outcome	0.00%	0
Poor customer service	0.00%	0
Response not timely	0.00%	0
Other (please specify)	0.00%	0
	Answered	0
	Skipped	1,686

Question 11 - In previous questions, you indicated you had first-hand knowledge of fraud, waste or abuse occurring in the past two years in the agency you are currently working for. Why didn't you use the Legislative Audit Division Hotline to report this?

Answer Choices	Responses	
I did not believe it was the appropriate place to report in this situation	19.80%	20
I was not aware there was a Hotline for reporting fraud, waste, or abuse	41.58%	42
I knew about the Hotline, but couldn't find information on how to make contact	0.00%	0
I decided to use a different reporting mechanism	8.91%	9
I didn't think my allegations would be taken seriously	3.96%	4
I wasn't sure that I would be able to remain anonymous	1.98%	2
I was worried about retaliation against me	5.94%	6
Other (please specify)	17.82%	18
	Answered	101
	Skipped	1,585

Question 12 - Check the reasons why you did not report the suspected fraud, waste, or abuse. (Check all that apply)

Answer Choices	Responses	
I didn't believe it was serious enough to warrant a report	18.00%	36
I didn't know where or how to report it.	21.50%	43
I didn't think anything would be done about it, even if I reported it.	54.50%	109
I feared that I would be retaliated against if I reported it.	56.50%	113
I was not sure it was fraud, waste, or abuse, or if my suspicions were correct.	28.50%	57
Other (please specify)	25.00%	50
	Answered	200
	Skipped	1,486

Question 13 - The following represent some examples of fraud, waste, or abuse that can occur in public sector organizations. Please indicate how common you think these behaviors have been in the past two years in the agency you are currently working for.

	Never		Rare		Sometimes		Frequent		Total
Theft of cash or property	65.38%	963	30.21%	445	4.01%	59	0.41%	6	1473
Misuse of procurement cards	63.41%	934	30.82%	454	5.43%	80	0.34%	5	1473
Fraudulent travel claims	64.29%	947	29.12%	429	5.91%	87	0.68%	10	1473
Manipulation, falsification, or alteration of government records	69.18%	1019	23.83%	351	6.04%	89	0.95%	14	1473
Personal use/misuse of state vehicles	55.13%	812	31.09%	458	12.02%	177	1.77%	26	1473
Acceptance of bribes, kickbacks, or gifts	74.54%	1098	21.38%	315	3.46%	51	0.61%	9	1473
Nepotism	53.16%	783	25.32%	373	15.21%	224	6.31%	93	1473
Collusion with vendors or contractors	67.21%	990	24.64%	363	7.06%	104	1.09%	16	1473
Noncompliance with hiring/ recruitment laws and rules	57.16%	842	25.39%	374	12.90%	190	4.55%	67	1473
Fraudulent time reporting	48.27%	711	31.64%	466	15.07%	222	5.02%	74	1473
Illegal employee discipline/ termination decisions	61.44%	905	26.34%	388	9.37%	138	2.85%	42	1473
Management directing staff to perform personal errands	75.08%	1106	21.59%	318	2.92%	43	0.41%	6	1473
Purchasing equipment or supplies that were unnecessary or were never used	54.65%	805	31.23%	460	11.81%	174	2.31%	34	1473
Deliberate destruction of state property	77.60%	1143	20.84%	307	1.36%	20	0.20%	3	1473
Using state time or resources to conduct personal business	41.55%	612	37.07%	546	17.31%	255	4.07%	60	1473

Question 13 continued	Never		Rare		Sometimes		Frequent		Total
Disclosing or using confidential information for personal benefit	71.76%	1057	24.44%	360	3.33%	49	0.48%	7	1,473
Using state time or resources to participate in political campaign activity	71.42%	1052	23.29%	343	4.89%	72	0.41%	6	1,473
Retaliation against whistleblowers	62.73%	924	22.20%	327	10.52%	155	4.55%	67	1,473
Other (please specify)									68
								Answered	1,473
								Skipped	213

Question 14 - Does your agency have a policy for reporting suspected fraud, waste, or abuse?

Answer Choices	Responses	
Yes	49.83%	732
No	1.63%	24
I don't know	48.54%	713
	Answered	1,469
	Skipped	217

Question 15 - Does your agency provide training for staff on how to report suspected fraud, waste, or abuse?

Answer Choices	Responses	
Yes	26.58%	390
No	23.79%	349
I don't know	49.63%	728
	Answered	1,467
	Skipped	219

Question 16 - Prior to taking this survey, were you aware that the Legislative Audit Division has a hotline for reporting fraud, waste, or abuse in state government?

Answer Choices	Responses	
Yes	33.22%	487
No	66.78%	979
	Answered	1,466
	Skipped	220

Question 17 - Did you know that state law protects state employees from retaliation when they report suspected fraud, waste, or abuse using the Legislative Audit Division Hotline?

Answer Choices	Responses	
Yes	56.75%	832
No	43.25%	634
	Answered	1,466
	Skipped	220

Question 18 - On a scale of 1-5, with a 1 being a low level of confidence and 5 being a high level of confidence, how confident are you that you would be protected from retaliation if you reported suspected fraud, waste, or abuse to the Legislative Audit Division?

1= Low Level of Confidence		2		3		4		5 = High Level of Confidence		Total	Weighted Average
17.06%	250	14.74%	216	27.17%	398	24.23%	355	16.79%	246	1,465	3.09
										Answered	1,465
										Skipped	221

Question 19 - Did you know the Legislative Audit Division Hotline allows you to report waste, fraud, and abuse in state government anonymously and confidentially?

Answer Choices	Responses	
Yes	40.37%	591
No	59.63%	873
	Answered	1,464
	Skipped	222

Question 20 - On a scale of 1-5, with a 1 being a low level of confidence and 5 being a high level of confidence, how confident are you that your anonymity and confidentiality would be protected if you reported suspected fraud, waste or abuse to the Legislative Audit Division?

1=Low Level of Confidence		2		3		4		5=High Level of Confidence		Total	Weighted Average
14.29%	209	13.67%	200	27.14%	397	26.79%	392	18.11%	265	1,463	3.21
										Answered	1,463
										Skipped	223

Question 21 - Do you think you will use the Legislative Audit Division Hotline in the future if you become aware of suspected fraud or abuse?

Answer Choices	Responses	
Yes	83.31%	1,218
No	16.69%	244
	Answered	1,462
	Skipped	224